

Mr. Estrada and Justice Owen represent the mainstream of American law and American values, possess extraordinary experience and integrity, and have strong bipartisan support from those who know them best. They will be outstanding circuit judges once they receive a vote and are confirmed.

In recent days, many Senators of both parties have rightly spoken out about the broken confirmation process and reiterated the need for the Senate to ensure timely consideration of judicial nominees. I appreciate their call for the Senate to fulfill its constitutional responsibility and hold up-or-down votes on all judicial nominees within a reasonable time after nomination.

## Remarks on the Judicial Confirmation Process *May 9, 2003*

Thank you all very much. Please be seated. Thanks. Thanks a lot for coming. Thanks for the warm welcome. Welcome to the White House and the Rose Garden. I'm pleased all of you could be here to stand for a truly independent Federal judiciary. The Framers of the Constitution knew that freedom and justice depend on fair and impartial judges. To ensure judges of the highest quality, integrity, they designed a system in which the President would nominate judges and the Senate would vote up or down on the nominees.

Today, we are facing a crisis in the Senate and, therefore, a crisis in our judiciary. Highly qualified judicial nominees are waiting years to get an up-or-down vote from the United States Senate. They wait for years while partisans search in vain for reasons to reject them. The obstructionist tactics of a small group of Senators are setting a pattern that threatens judicial independence. Meanwhile, vacancies on the bench and overcrowded court dockets are causing delays for citizens seeking justice. The judicial confirmation process is broken, and it must be fixed for the good of the country. Every person nominated to the Federal bench deserves a timely vote.

I want to appreciate Al Gonzales' introduction. I appreciate his good, sound legal advice. He's been my friend for a long time. I'm really pleased he left Austin,

Texas, to come up here and serve our country. I also want to thank the Attorney General for serving our country as well. He is doing a fabulous job for our Nation, and we wish him a happiest 60th birthday today.

I'm so pleased the leaders of the United States Senate are here. Bill Frist is ably leading the United States Senate. Thank you for coming, Senator. I want to thank Senator Orrin Hatch for being here as well. The chairman is going to lead the efforts to reform our process. And Mr. Chairman, I support your work to make sure we increase judicial pay across the United States. Thank you for your leadership.

I'm also grateful that Senators Cornyn from Texas, Dole, and Graham of South Carolina, Mitch McConnell, Zell Miller, and Arlen Specter are with us. These folks represent the best of the United States Senate, and thank you for coming.

I appreciate the fact that members of John Ashcroft's staff from the Justice Department are here, in particular Larry Thompson, Bobby McCallum, and Ted Olson. Thank you all for your good work and service.

I know we've got a lot of distinguished lawyers who are here. A.P. Carlton is the president of the American Bar Association. A.P., I appreciate you coming and lending your efforts to make sure that the system

works on behalf of the American people. Duard Bradshaw, who's the president of the Hispanic National Bar Association, is here as well. Welcome to you both. Thank you for your concern. And welcome to all.

Exactly 2 years ago, I announced my first 11 nominees to the Federal appeals court. I chose men and women of talent and integrity, highly qualified nominees who represent the mainstream of American law and American values. Eight of them waited more than a year without an up-or-down vote in the United States Senate. As of today, three of that original group have waited 2 years. Their treatment by a group of Senators is a disgrace.

Overall, I have sent to the Senate 42 superb nominees for Federal courts of appeal. Eighteen of them are still waiting for a vote in the Senate, and 8 of those 18 have been waiting more than a year. More appeals court nominees have had to wait over a year for a hearing in my Presidency than in the last 50 years combined. This is not just business as usual. This is an abnegation\* of constitutional responsibility, and it is hurting our country.

As President, I have the constitutional responsibility to nominate excellent judges, and I take that responsibility seriously. The men and women I have nominated are an historically diverse group whose character and credentials are impeccable.

This group includes Miguel Estrada, my selection for the DC Circuit Court of Appeals. Miguel Estrada has served in the Justice Department under Presidents from both political parties. He has argued 15 cases before the U.S. Supreme Court. He has earned the American Bar Association's highest mark, a unanimous rating of "well-qualified." If confirmed, Miguel would be the first Hispanic American ever to serve on the court that is often considered the second highest in the land. Miguel Estrada's nomination has strong support from citizens and leaders in both political

parties, and he has support from a majority in the United States Senate.

Yet, after 2 years, he still cannot get an up-or-down vote on the floor of the Senate. A group of Democratic Senators has insisted that Mr. Estrada answer questions that other nominees were not required to answer. These Senators have sought confidential Justice Department memos not sought for other appeal court nominees—a request opposed by all living former Solicitor Generals because of the damage it would do to our legal system. These Senators have also filibustered for 3 months to prevent a vote on Miguel Estrada's nomination. Never before has there been a successful filibuster to prevent an up-or-down vote on an appeals court nominee. This is an unprecedented tactic that threatens judicial independence and adds to the vacancy crisis in our courts, and it is wrong.

Justice Priscilla Owen, whom I have nominated to the Fifth Circuit Court of Appeals, also has the support of the majority of United States Senators. And she too has become the target of a filibuster. Justice Owen is an extraordinarily well-qualified nominee who has served with distinction on the Texas Supreme Court since 1995. Like Miguel Estrada, she has earned the American Bar Association's unanimous rating of "well-qualified." She has strong bipartisan support, including endorsements from three Democrats who served with her on the Texas Supreme Court and endorsements from 15 past presidents of the Texas bar. Yet, Justice Owen has been waiting 2 years—2 years—for an up-or-down vote on the Senate floor.

The list goes on. And the trend is clear: Of the 18 appeals court nominees awaiting a vote, all who have been rated by the American Bar Association have received "well-qualified" or "qualified" ratings. Some Democratic Senators have referred to those ratings as the gold standard. But those same Senators have ignored those high marks and instead of applying the gold standard, have applied a double standard

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\* White House correction.

to some of my nominees. The Senate has a constitutional responsibility to hold an up-or-down vote.

Throughout most of our history, the Senate has exercised this responsibility and voted promptly on judicial nominees. During the administration of former Presidents Bush and Clinton, however, too many appeals court nominees never received votes. And today the situation is worse than ever, making the need for reform greater than ever.

While Senators stall and hold on to old grudges, American justice is suffering. Dockets are overcrowded, judges are overworked, and citizens are waiting too long for their cases to be heard. The regional appeals courts have a 12-percent vacancy rate, and filings in those courts have reached an all-time high again last year. The Sixth Circuit, which covers Ohio and Michigan and Kentucky and Tennessee, has 4 vacancies on a 16-judge court. The DC Circuit has 3 vacancies on a 12-judge court. Of the 18 open seats that could be filled by the nominees waiting for Senate confirmation, 15 have been classified as judicial emergencies by the Judicial Conference of the United States. The American Bar Association has called this an emergency situation. And the Chief Justice recently said that these vacancies and rising caseloads threaten the proper functioning of Federal courts and asked the Senate to give every nominee a prompt up-or-down vote.

The bitterness and partisanship that have taken over the judicial confirmation process also threatened judicial independence. Some Senators have tried to force nominees to take positions on controversial issues before they even take the bench. This is contrary to the constitutional design of a separate and independent judicial branch.

Six months ago, I proposed a plan to end the vacancy crisis and make the process work again. This plan would apply no matter who lives in the White House or no matter which party controls the United

States Senate. Here's how it works: Judges on the Federal appellate and district courts would notify the President of their intentions to retire at least a year in advance whenever that is possible. The President would then submit a nomination to the U.S. Senate within 180 days of receiving notice of a vacancy or intended retirement. The Senate Judiciary Committee would hold a hearing within 90 days of receiving a nomination. And the full Senate would vote on a nominee no longer than 180 days after the nomination is submitted. The goal is to have a new judge ready to take the bench on the same day the sitting judge retires.

Since I announced this plan, the Judicial Conference has done its part by strongly urging judges to give a one-year advance notice of retirement. I've done my part with an Executive order issued today formalizing my commitment to submit nominations within 180 days after notification of a vacancy. And now we're waiting for the Senate to do its duty and ensure timely up-or-down votes for every single nominee.

Majority Leader Frist and Judiciary Chairman Hatch are pushing hard for progress on this issue. They are reformers. And I thank you for your hard work. U.S. Senator Arlen Specter and U.S. Senator Zell Miller have proposed reforms to fix the problem. And I thank you for your leadership. I'm very pleased that 10 freshmen Senators of both parties have come together to demand the return of dignity and civility to the process. As newcomers, they see the futility of endless bickering that blocks good judges from the bench.

Under the leadership of John Cornyn and Democrat Mark Pryor, these Senators sent a letter to the Senate leadership last week. And this is what it said: "None of us were parties to any of the reported past offenses, whether real or perceived. None of us believe that the ill will of the past should dictate the terms and direction of the future. Each of us firmly believes the United States Senate needs a fresh start."

I completely agree, and so do the American people. I believe a fresh start is possible. And we will stand with these Senators to bring needed reform on behalf of the American people. And I ask for your help. I ask for your help to make sure our judiciary functions in a way that will make the people proud. I ask for your help in talking to Senators as we convince them that obstructionist policies harm the American people. It hurts the justice system that makes us the envy of the world. I know we can move forward. I look forward to

the day when a good nominee gets a vote, up or down, in timely fashion on the floor of the United States Senate.

Thank you all for coming, and God bless. Thank you all for coming.

NOTE: The President spoke at 10:30 a.m. in the Rose Garden at the White House. In his remarks, he referred to Counsel to the President Alberto R. Gonzales. The Executive order on facilitating the administration of justice in the Federal courts is listed in Appendix D at the end of this volume.

## Commencement Address at the University of South Carolina in Columbia, South Carolina *May 9, 2003*

Thank you all very much. Thank you all. President Sorensen and Governor Sanford, members of the South Carolina congressional delegation and State officials, members of the faculty, trustees, the families, distinguished guests, and members of the Class 2003, thank you for the warm welcome to this great State and to this fine university. I'm honored to be with you on graduation day as you all become proud alumni of the University of South Carolina.

I work every day with a distinguished graduate of USC, and I brought him along this afternoon, White House Chief of Staff Andrew Card of the Class of 1971.

Andy is a superb public servant and an honorable man. His loyalty to this university runs deep, and sometimes he gets carried away. *[Laughter]* I don't mind the chicken finger Wednesdays at the White House. *[Laughter]* I don't even mind his shag dancing in the West Wing. *[Laughter]* But it's a little much when Andy shows up on the day of the Clemson game dressed as "Cocky." *[Laughter]*

I am so thankful for the invitation to be the speaker this afternoon. When I arrived, I heard an old boy standing outside.

He said, "We're honored to have the President speaking with us today. It's almost as good as last year when Lou Holtz was the speaker." *[Laughter]*

Today marks a great achievement for this graduating class. You've put your talents to good use; you're seeing the rewards of your hard work. Congratulations to each one of you.

I also congratulate the men and women who gave their best to this and every class, the fine professors of the University of South Carolina. And I join the graduates in thanking the people whose love and sacrifice made this day possible, the parents of the graduates of the Class of 2003.

Forty-six years ago, Senator John F. Kennedy came to this campus to address the graduating class of 1957. He spoke of the great problems of that time, including, he said, "untangling the strife-ridden, hate-ridden Middle East." In the decades since, that strife and hate sometimes seemed like a distant tragedy having little to do with America.

After September the 11th, 2001, your generation and our whole country knows